

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAMEN D. RABB,

Plaintiff,

v.

CABRERA, *et al.*,

Defendants.

Case No. 1:23-cv-01014-ADA-BAM (PC)

ORDER DENYING PLAINTIFF'S
RENEWED MOTION TO AMEND
WITHOUT PREJUDICE

(ECF No. 17)

Plaintiff Damen D. Rabb ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 29, 2023, the Court screened the first amended complaint and issued findings and recommendations that this action proceed on Plaintiff's first amended complaint against Defendant Cabrera for failure to protect in violation of the Eighth Amendment, and all other claims and defendants be dismissed based on Plaintiff's failure to state claims upon which relief may be granted. (ECF No. 12.) Plaintiff timely filed objections on September 15, 2023, (ECF No. 13), and the findings and recommendations are pending before the assigned District Judge.

On October 23, 2023, Plaintiff filed a request to file a second amended complaint, stating his intent to include details to correlate the instant action with another pending case, *Rabb v. Figueroa*, Case No. 1:23-cv-00843-JLT-SAB (PC). (ECF No. 15.) The Court denied the motion, without prejudice, finding that Plaintiff had not included a proposed second amended complaint and based on the information provided it appeared amendment would be futile and cause delay.

(ECF No. 18.)

On November 6, 2023, Plaintiff filed a renewed request for leave to file a further amended complaint. (ECF No. 17.) Plaintiff raises the same arguments as in his prior motion, though he clarifies that he does not wish to add new defendants to this action, and also identifies *Rabb v. Cal. Dep't of Corr. & Rehab.*, Case No. 1:23-cv-01381-GSA as another case related to the instant action and *Rabb v. Figueroa*. (*Id.*) Plaintiff has again not included a proposed amended complaint.

As Plaintiff has raised largely the same arguments as those set forth previously, the Court denies the motion for the same reasons provided in the Court's October 25, 2023 order. (ECF No. 16.) Based on the information provided, it appears that the proposed amendment would be futile and cause unnecessary delay. Moreover, the identified actions do not appear to be related and Plaintiff has not explained how the addition of facts that would allegedly connect these actions will cure any of the deficiencies identified by the pending findings and recommendations in this action.

Plaintiff is reminded that the Court cannot fully evaluate the scope of the proposed amendment without a proposed amended complaint. If Plaintiff chooses to renew his motion, he should include a proposed amended complaint that is "complete in itself without reference to the prior or superseded pleading," as required by Local Rule 220. Plaintiff's re-filed motion to amend should also specifically address how an amended complaint will cure the deficiencies identified by the Court's prior screening orders.

Based on the foregoing, Plaintiff's renewed motion to amend, (ECF No. 17), is HEREBY DENIED, without prejudice.

IT IS SO ORDERED.

Dated: November 7, 2023

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE